

HUMAN SERVICES BOARD

INTRODUCTION

FINDINGS OF FACT

2. The petitioner and his child left the household and moved to a separate address around September 8, 2002. On September 18, the petitioner applied for Food Stamps and RUFA for himself and the child. Although the Department states that it had to do some "investigation", the Department does not maintain that it needed or required any further

information from the petitioner after September 18 in order to find that he and his child were living in a separate household.

3. On October 1, 2002 the Department mailed the petitioner a notice finding him and his child eligible for RUFA effective October 16, 2002 and for Food Stamps effective November 1, 2002. The Department maintains (and the petitioner does not dispute) that it paid a full month of Food Stamps and a half month of RUFA benefits for four persons to the child's mother on October 1, 2002. The Department does not dispute that the child's mother spent all the benefits paid to her on October 1 on herself and her other child and that neither the petitioner nor his child received any benefit from these payments.

4. Presumably, on or about October 1, 2002 the Department also notified the mother of the child that her RUFA grant would be reduced as of October 16 and her Food Stamps reduced as of November 1 because the petitioner and his child had left her household.

5. The petitioner maintains that he and his child should have been found eligible for RUFA and Food Stamps as a household of two persons effective October 1, 2002.

ORDER

The Department's decision is modified. The petitioner and his child shall be granted RUFA and Food Stamps as a household of two persons effective October 1, 2002.

REASONS

W.A.M. § 2210 provides that applications for RUFA shall be processed by the Department "as soon as possible but no later than within 30 days from the date of application". Under W.A.M. § 2226.1 the initial money payment is based on a percentage of the days remaining in the month in which eligibility is found. In this case, the Department found the petitioner and his child eligible for RUFA on October 1, 2002. However, because it had already included the petitioner's and his child's needs in a payment made that same day to the child's mother, the Department did not make the petitioner's grant effective until October 16, 2002. This resulted in a payment of 40 percent of the petitioner's and his child's monthly benefit level for October. See W.A.M. § 2232.

The Department maintains that it is prevented by federal regulations from paying more than one grant on behalf of the same child. While this may be true, it begs the question of whether the Department should have included the petitioner's

and his child's needs in its RUFA payment to the child's mother on October 1, 2002.

Under the Department's regulations a recipient has 10 days to report any change in circumstances that might affect eligibility. W.A.M. § 2220. The Department then must give written notice of a decision to reduce or terminate benefits at least 10 days prior to the effective date of the adverse action. W.A.M. § 2228. In this case, the Department admits that on September 18, 2002 it had all the information it required from the petitioner to determine that he and his child were no longer living in the same household as the mother of that child. Although the Department, for whatever reason, waited an additional 13 days before acting on this information, nothing in the regulations required it to do so.

Based on information provided by the petitioner, the Department could have notified the child's mother as early as September 18 and as late as September 20, 2002 that her RUFA grant would be reduced effective October 1, 2002. The fact that the Department chose to delay notification of its reduction of the mother's grant until October 1 (effective October 16) may provide a basis to determine that the mother was overpaid RUFA benefits during this period. See W.A.M. § 2234.2. However, it provides no basis whatsoever under the

regulations for failing to find the petitioner eligible for RUFA as of October 1. Based on the information provided by the petitioner in his application on September 18, 2002, the Department was required by its regulations to begin paying his RUFA grant effective the day it made its decision of eligibility—October 1, 2002.

With one slight distinction, the same analysis applies to the petitioner's eligibility for Food Stamps. Ordinarily, an applicant for Food Stamps who is also found to be eligible for RUFA is eligible for Food Stamps going back to the date of application. Food Stamp Manual (FSM) § 273.2(j)(1)(iv). As noted above, the petitioner applied for Food Stamps on September 18, 2002. There is no dispute in this case that the petitioner and his child had already received Food Stamps for the month of September on September 1, 2002 when they were still living in the household that included the child's mother. Therefore, under the regulations they could not receive Food Stamps in September as members of any other household. F.S.M. § 273.3(a).

Again, however, the Department maintains that because it included the petitioner and his child in the mother's Food Stamp household for October 2002, the petitioner and his child were ineligible for Food Stamps for that month as well. As

was the case with the petitioner's application for RUFA (see *supra*), this begs the question of whether the Department should have included the petitioner and his child in the mother's grant for October.

F.S.M. § 273.12(c)(2)(i) allows the Department to take up to 10 days to issue a "notice of adverse action" once it learns of a change in circumstances resulting in a reduction of a household's Food Stamps. The Department must then issue its notice of adverse action at least 10 days before the action can become effective. F.S.M. § 273.13(a)(1). In this case the Department was notified of the change in the mother's household on September 18, 2002. Benefits could have been reduced to the mother's household effective October 1 if the Department had sent a notice by September 20. As was the case with the RUFA grant, however, it appears the Department chose to wait until after September 20 to send its notice—too late to effect a reduction in the mother's Food Stamps by October 1, 2002.

Again, the Department's delay in sending its notice to the mother's household may provide a basis to determine that the mother was overpaid Food Stamps for October. See F.S.M. § 273.18. However, it does not provide a basis to justify delaying the effective date of the petitioner's eligibility.

Under the above regulations the petitioner was fully eligible to begin receiving Food Stamps as of October 1, 2002. The Department's decision is modified accordingly.

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